

ORIGINAL**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

**NORFOLK SOUTHERN RAILWAY COMPANY; the
CITY OF MOUNT OLIVE; STAUNTON TOWNSHIP;
and the STATE OF ILLINOIS, DEPARTMENT OF
TRANSPORTATION,**

T03-0041

RECEIVED
JAN 5 2006Illinois Commerce Commission
RAIL SAFETY SECTION

**Stipulated Agreement regarding improving public
safety at the crossings of the Company's tracks with
public highways known as Third North Street, Main
Street (CH 16), Second South Street, Third South
Street, Poplar Street, and Eighth South Street, all in
the City of Mount Olive, and TR 457 in Staunton
Township, all located in Macoupin County, Illinois,
designated as crossings AAR/DOT 480 074P,
milepost 444.51-WA, AAR/DOT 480 075W, milepost
444.74-WA, AAR/DOT 480 076D, milepost 444.85-WA,
AAR/DOT 480 077K, milepost 444.93-WA, AAR/DOT
480 078S, milepost 445.09-WA, AAR/DOT 480 079Y,
milepost 445.28-WA, and AAR/DOT 480 084V,
milepost 447.13-WA, respectively.**

SUPPLEMENTAL PETITION FOR ADDITIONAL FUNDING

Now comes supplemental petitioner, the City of Mount Olive, by its attorneys, Bertinetti & Cain, and requests that the Illinois Commerce Commission issue a supplemental Order granting the City of Mount Olive additional funding. The original order approved \$235,283 to be used for the referenced project. As detailed below, several necessary changes to the project have increased the cost beyond the original allotted amount. Therefore, we are requesting an additional \$50,000 to ensure ample funds to complete the work. The additional funding would increase the allocation to \$ 285,283. The aforementioned funding will be used to complete the work required to be performed by the City of Mount Olive pursuant to the June 4, 2003 Order issued by the Illinois Commerce Commission in the above captioned cause. In support thereof, the City of Mount Olive states as follows:

1. On February 7, 2003, March 5, 2003, March 28, 2003, April 21, 2003, and May 7, 2003, the Staff of the Illinois Commerce Commission (COMMISSION), the Illinois

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Department of Transportation (DEPARTMENT), Staunton Township (TOWNSHIP), the City of Mount Olive (CITY), and the Norfolk Southern Railway Company (COMPANY), respectively, executed the Stipulated Agreement No. 1033 relating to safety improvements at the locations captioned above.

2. Pursuant to the aforesaid stipulation on June 4, 2003 the Illinois Commerce Commission entered its Order in the above captioned cause authorizing safety improvements at the aforesaid grade crossing locations.
3. Pursuant to the terms of the June 4, 2003 Order, the City of Mount Olive, or their respective contractor crews, was to complete the Third North, Second South, Poplar and Eight Streets approach reconstruction improvements on or before December 4, 2004.
4. Pursuant to the terms of the aforesaid Order, the City of Mount Olive has timely secured the services of the City's consulting engineers (Henry, Meisenheimer & Gende, Inc.) to complete the final plans, specifications and estimates, to obtain required agency approvals, to assist in the advertising and bidding of the project for construction, and to provide resident project representative services during construction.
5. Pursuant to the terms of the aforesaid Order, the City of Mount Olive had been granted an extension of time to complete the described work on or before December 4, 2005.
6. Pursuant to the terms of the aforesaid Order, the City of Mount Olive had been granted an extension of time to complete the described work on or before June 4, 2006.
7. Due to unanticipated changes during construction that were required to meet the original scope of work, additional funding is being requested. The following outlines reasons for the request.

- A 15" storm sewer was found inletting into an existing manhole well below the outlet flow line of the structure on Oak Street. The existing pipe was completely full of silt, and was not originally exposed within the manhole. Correction of this problem required additional storm sewer and a manhole along Oak Street.
- The new Railroad Crossing Gates were installed above the proposed storm sewer conveyance system on Poplar Street. The Railroad was supplied plan sheets depicting the locations of the proposed work. The Railroad was informed about the conflict. They stated that it would be December before the gate could be moved and requested that we instead have the conveyance system changed. This required redesign of the system by the Engineering Firm and subsequently additional cost to the project. The contractor was moved to 2nd South Street to continue work.
- While installing storm sewer on 2nd South Street, the contractor excavated contaminated soils. The contractor was shut down until the EPA and Environmental Firm were able to clean the equipment. After his equipment had been cleaned, the contractor was able to move to a new location. However, the cleanup cost the contractor time and money while being shut down and making multiple moves between locations. There was also additional time and Cost on the Engineers to coordinate the cleanup efforts with the IEPA, and to complete necessary paperwork. After the machinery cleanup was complete, the contractor was moved back to Poplar Street until the contaminated soils could be removed.
- The contractor attempted to finish the newly designed conveyance system on Poplar Street, as previously mentioned. While excavating, the contractor located a conflict with the water main and the newly re-routed conveyance system. This required the contractor to stop work at Poplar Street as well. The water main had to be lowered to accommodate the newly relocated storm sewer. Additional costs were incurred by the Contractor and the Engineer. The line was designed and lowered per Illinois


Environmental Protection Agency standards after completing and receiving the required permits.

- Additionally, we are anticipating additional construction costs due to a recent change in profile grades. Just as the project was beginning, as part of routine maintenance, the Railroad replaced the old railroad ties at all four locations. This work raised the tracks $\pm 3"$ at each location. The Engineers created new profiles to accommodate these changes. There will be $\pm 3"$ of CA-06 required to correct the grade change at the tracks, and subsequently additional construction costs.
8. Due to the reasons outlined above, it will not be possible to complete the required work and original scope with the Funding that was originally allotted for the locations in which the City of Mount Olive is responsible as required by the Order of the Illinois Commerce Commission.
 9. Failure to complete the aforesaid efforts using the allotted funds is not the result of lack of diligence or attention by the City of Mount Olive nor their consulting engineers. All changes mentioned could not have been anticipated nor avoided by the City or the Engineers. The replacement of the warning devices at all the required locations has already been completed by the Norfolk Southern Railway Company, thus the Norfolk Southern Railway Company has not been delayed by the City of Mount Olive.
 10. The City of Mount Olive, in communication with their consulting engineers, reasonably believes it can complete the project for \$285,283 and therefore requests a supplemental Order from the Illinois Commerce Commission granting such additional Funds.
 11. The City of Mount Olive's supplemental petition herein is not made for the purpose of delay but rather to obtain such funds as is reasonably required to complete all of the work required to be performed by the City of Mount Olive under the terms of the Order

entered by the Illinois Commerce Commission in this cause. The City of Mount Olive has made no prior request for additional funding.

12. Wherefore, supplemental petitioner, the City of Mount Olive prays that the Illinois Commerce Commission enter a supplemental Order granting the City of Mount Olive additional funds, to and including \$285,283 in which to complete the safety improvements as provided in the June 4, 2003 Order entered by the Illinois Commerce Commission in the above captioned cause.

CITY OF MOUNT OLIVE


Brent A. Cain

Brent A. Cain
Bertinetti & Cain
Attorneys for Supplemental Petitioner
The City of Mount Olive
P.O. Box 645
Carlinville, Illinois 62626
(217) 854-2666

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the following individuals by enclosing the same in an envelope addressed as follows:

Mr. James Easterly, Director
Mr. Victor A. Modeer
Director of Highways-IDOT
ATTN: JEFF HARPRING, ROOM 205
2300 South Dirksen Parkway
Springfield, IL 62764

Mr. Thomas W. Ambler
Norfolk Southern Railway Co.
Three Commercial Place
Norfolk, VA 23510-2191

Mr. Richard E. Boyle
Norfolk Southern Railway Co.
5000 West Main St., Box 23560
Belleville, IL 62223-0560

Mr. Thomas Spears
City of Mount Olive, Mayor
200 East Main Street
Mount Olive, IL 62069-1704

Ms. Cathy Teetor, Clerk
City of Mount Olive
200 East Main Street
Mount Olive, IL 62069-1704

Mr. Raymond Spudich
Staunton Township, Supervisor
514 W. 5th Street
Staunton, IL 62088

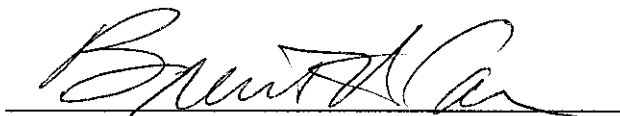
Ms. Dorothy Beyer
Staunton Township, Clerk
200 E. 2nd Street
Staunton, IL 62088

Mr. Robert Caldieraro
Staunton Township, Highway
Commissioner
P.O. Box 133
Staunton, IL 62088

Mr. John Goldacker
City of Mt. Olive Street
Commissioner
200 East Main Street
Mount Olive, IL 62069

Mr. Rick Ray
Administrator Highway Grade
Crossings
Norfolk Southern Railway Co.
1200 Peachtree Street, NE
Atlanta, GA 30309-3579

Said envelope, addressed as set out above, containing a copy of the foregoing instrument was deposited in the U.S. Post Office Mail Box in the City of Carlinville, Illinois, with postage fully prepaid on the 28 day of Dec, 2005.



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